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Guide to Statutes and Regulations

New Jersey State Board of Accountancy Statutes

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Title 45, Chapter 2B.

Public Accounting

Subtitle 1. Professions And Occupations Regulated By State Boards Of Registration And Examination

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45:2B-17.1. Repealed by L.1997, c. 259, § 35, eff. April 6, 1998

45:2B-18. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980

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45:2B-27 to

45:2B-41. Repealed by L.1997, c. 259, § 35, eff. April 6, 1997

45:2B-42. Short title; accountancy act of 1997

This act shall be known and may be cited as the “Accountancy Act of 1997.”

45:2B-43. Legislative findings and declaration; Accountancy Act of 1997

The Legislature finds and declares that it is the policy of this State, and the purpose of this act, to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises. The public interest requires that persons preparing financial statements accompanied by reports or professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information shall have demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained those qualifications, including license holders not in public practice, shall not be permitted to hold themselves out as having that special compe-

tence or to offer that assurance; that the professional conduct of persons licensed as having special competence in accountancy be regulated in all aspects of the practice of public accountancy; that a public authority competent to prescribe and assess the qualifications and to regulate the professional conduct of practitioners of public accountancy be established; and the use of titles relating to the practice of public accountancy that are likely to mislead the public as to the status or competence of the persons using those titles be prohibited.

45:2B-44. Definitions; Accountancy Act of 1997

As used in this act:

“Attest” means providing any of the following financial statement services: an audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS); a review of a financial statement or compilation of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS); or an examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE). The statements on standards specified herein shall be adopted by regulation by the board and shall be in accordance with standards developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants.

“Board” means the New Jersey State Board of Accountancy.

“Financial statements” means statements and related footnotes that purport to present an actual or a prospective financial position at a particular time, or results of operations, cash flow, or changes in financial position for a period of time, in conformity with generally accepted accounting principles or another comprehensive basis of accounting. The term includes specific elements, accounts or items of such statements, but does not include: incidental financial data included in management advisory service reports to support recommendations to a client; or tax returns and supporting schedules.

“Firm” means a sole proprietorship, a professional corporation, a partnership, a limited liability company, a limited liability partnership, or any other lawful form of business organization.

“License” means a license or registration issued to an individual or firm permitting the individual or firm to practice public accountancy.

“Licensee” means the holder of a license issued pursuant to this act.

“Manager” means a manager of a limited liability company.

“Member” means a member of a limited liability company.

“Nonlicensee” means a person not licensed as a certified public accountant or a public accountant of any state or possession of the United States or the District of Columbia.

“Owner of a firm” means any person with an equity or equivalent interest in a firm, such as a shareholder with respect to a corporation or a partner with respect to a partnership, or an individual with respect to a sole proprietorship.

“Practice of public accountancy” or “practicing public accountancy” means the performance or the offering to perform attest services, by a person or firm holding itself out to the public for a client or potential client or the performance as a licensee of one or more of the following: a compilation of a financial statement to be performed in accordance with SSARS, management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. A compilation to be performed in accordance with SSARS shall be allowed on or after the 180th day following the effective date of this amendatory and supplementary act.

“Practice unit” means any office of a firm registered with the board to engage in the practice of public accountancy in the State of New Jersey.

“Quality review” means a study, appraisal or review of one or more aspects of the professional work of a person or firm in the practice of public accountancy, by a person who is a certified public accountant or public accountant and who is not affiliated with the person or firm being reviewed.

“Report” when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statement and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing, such as a statement or implication of special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term “report” includes any form of language which disclaims an opinion when that form of language is conventionally understood to imply any positive assurance as to the reli-

ability of the financial statement referred to or special competence on the part of the person or firm issuing that language, or both; and it includes any other form of language that is conventionally understood to imply that assurance or that special knowledge or competence, or both.

45:2B-45. State Board of Accountancy; continuation

The New Jersey State Board of Public Accountants created and established by P.L.1904, c. 230 as amended and supplemented, continued by R.S.45:2-1 and further continued and constituted as the New Jersey State Board of Certified Public Accountants by P.L.1965, c. 99, and further continued and constituted as the New Jersey State Board of Accountancy by P.L.1977, c. 144, is further continued as the New Jersey State Board of Accountancy and the members and officers of that board as presently constituted shall continue to hold office until the expiration of their terms.

Wherever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey State Board of Certified Public Accountants, the same shall mean and refer to the New Jersey State Board of Accountancy.

45:2B-46. Membership; terms; Board of Accountancy

The board shall consist of 12 members, seven of whom shall have been engaged in practice as certified public accountants and two of whom shall have been engaged in practice as public accountants in this State, two of whom shall be public members and one of whom shall be a State executive department member. Each certified public accountant member, public accountant member, and public member shall be appointed by the Governor for a term of three years and shall hold office until reappointed or a successor is appointed and qualified. Any vacancy on the board shall be filled by the Governor for the unexpired term only.

The public members and the State executive department member shall be appointed by the Governor in accordance with and subject to the provisions of P.L.1971, c. 60 (C.45:1-2.1 et seq.).

Except for the State executive department member, no member may serve more than two successive terms in addition to any unexpired term to which he has been appointed, except that any member who has served two such successive terms may be reappointed after an intervening period of one year.

The Governor may remove any member of the board, other than the State executive department member, for cause, upon notice and opportunity to be heard.

45:2B-47. Oath of office; officers; quorum; reimbursement for expenses

- a. Before entering upon the discharge of their duties, the members of the board shall take and subscribe an oath for the faithful performance of their duties before the Attorney General or any officer authorized to administer oaths in this State and file the same with the Secretary of State.
- b. Subject to the approval of the Attorney General, the members of the board shall annually elect a president, a vice president, a treasurer and a secretary from among their members.
- c. Notwithstanding the provisions of any other law, the Attorney General shall appoint, as chief administrative officer of the board, an executive director who shall not be a member of the board and who shall serve at the pleasure of the Attorney General. The duties of the executive director shall be determined by the Attorney General. The executive director shall not engage in the practice of public accounting.
- d. A majority of the members of the board shall constitute a quorum and no action of the board shall be taken except upon the affirmative vote of a majority of the members of the entire board.
- e. Members of the board shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties and shall receive that compensation as determined by the Attorney General. The executive director shall receive that compensation as determined by the Attorney General within the limit of available funds.
- f. Expenditures of the board in any fiscal year shall not exceed board revenues and all expenditures shall be in accordance with the provisions of this act and the annual appropriations act.
- g. Subject to the approval of the Attorney General, the board may adopt rules and regulations as necessary to implement the provisions of this act, including, without limitations, rules and regulations governing professional conduct.

- h. Subject to the provisions of subsection f. of this section, the board may appoint committees or persons to advise or assist the board in the administration and enforcement of this act.

45:2B-48. Powers of Board of Accountancy

The board shall, in addition to any other powers granted under this act:

- a. Administer and enforce the provisions of this act;
- b. Adopt and promulgate rules, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), to effectuate the purposes of this act;
- c. Establish rules of professional conduct for persons licensed under this act, including, but not limited to, prohibiting the payment to, or receipt or offering of a commission or contingency fee by a licensee and establishing requirements for written disclosures in transactions involving a client of the licensee’s accounting practice;
- d. Conduct hearings pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.). In any hearing or investigation, the board shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers, or records;
- e. Take such action as is necessary before any board, agency or court of competent jurisdiction for the enforcement of the provisions of this act;
- f. Evaluate and pass upon the qualification of candidates for licensure;
- g. Adopt and administer the examinations to be taken by applicants for licensure;
- h. Prescribe or change the fees for examinations, licensing, registrations, certifications, renewals, or other services performed pursuant to the provisions of P.L.1974, c. 46 (C.45:1-3.1 et seq.);
- i. Subject to the requirements of this act, establish standards for and approve continuing education programs and sponsors of continuing education programs; and

- j. Have the investigative and enforcement powers provided pursuant to P.L.1978, c. 73 (C.45:1-14 et seq.).

45:2B-49. Application for licensure as Certified Public Accountant

Every applicant for examination for licensure as a certified public accountant shall present to the board a written application on a form to be provided by the board, together with the required fee, and satisfactory proof of the following:

- a. That the applicant is at least 18 years of age;
- b. That the applicant is of good moral character; and
- c. That the applicant has

At least 150 semester hours of education, including a baccalaureate or higher degree or its equivalent, from an institution of higher education accredited by a regional accrediting agency recognized by the Commission on Higher Education. The education program shall include a concentration in accounting or its equivalent and related professional courses as determined by regulation of the board.

Notwithstanding the provisions of subsection c. of this section, an applicant who applies prior to July 1, 2005 shall qualify for examination for licensure if he has a baccalaureate degree or its equivalent from an institution of higher education acceptable to the board; provided, however, that no applicant shall be issued a license unless he has successfully completed at least the 150 semester hours of education required pursuant to subsection c. of this section.

45:2B-50. Examination for licensure

Except as otherwise provided, no person shall be issued a license by the board to practice as a certified public accountant until he has passed all sections of an examination designated by the board with a passing grade of 75 in each section. If the candidate does not pass all of the sections of the examination at one sitting, he may be reexamined with respect to the sections which he did not pass, under terms and conditions established by the board.

Examinations shall be given by the board at least twice a year, and any person who wishes to sit for an examination shall apply to the board at least 60 days prior to the date of the examination. The board may make use of the Uniform Certified Public Accountant Examination, or the Advisor Grading Service of the American Institute of Certified Public Accountants, or

any other examination offered by an organization recognized by the board, which the board deems appropriate.

45:2B-51. Experience requirements; exemptions

- a. Except as provided in subsection b. of this section, every applicant for licensure as a certified public accountant, having passed the examination in compliance with the provisions of section 9 of this act,¹ shall provide satisfactory proof to the board that:
 - (1) The applicant has had one year of experience in the practice of public accountancy or its equivalent, under the direction of a licensee meeting requirements prescribed by the board; and
 - (2) The experience includes evidence of intensive and diversified experience in auditing or accounting as determined by regulation of the board.
- b.
 - (1) For six years following the effective date of this act, an applicant for licensure as a certified public accountant who has acquired, prior to the effective date of this act, not less than four years of experience deemed acceptable to the board in government, industry or education shall be exempt from the experience requirements of subsection a. of this section; and
 - (2) For four years following the effective date of this act, an applicant for licensure as a certified public accountant who is working in government, industry or education as of the effective date of this act shall be exempted from the experience requirements of subsection a. of this section so long as that applicant satisfactorily completes not less than four years of experience acceptable to the board.

¹ N.J.S.A. 45:2B-50.

45:2B-52. Registration as Public Accountant under prior acts

Any person who is registered as a public accountant pursuant to the provisions of section 13 of P.L.1977, c. 144 (C.45:2B-13) on the effective date of this act shall continue to hold that designation under the terms of this act, and shall be registered with the board and eligible for the renewal of any license issued by the board prior to the effective date of this act.

45:2B-53. Waiver of examination for applicants licensed in other jurisdictions

- a. The board may waive the examination of, and issue a license to, any person who is of good moral character, and who, at the time of his application, holds a valid and unrevoked license as a certified public accountant issued by or under the authority of any state or possession of the United States or the District of Columbia which has education, experience, examination and re-examination requirements which are substantially equivalent to the requirements of this act and the regulations promulgated pursuant to this act for the issuance of a license as a certified public accountant.
- b. The board may waive the examination of, and issue a license to, an applicant who within 10 years immediately preceding the date of application has held a valid and unrevoked license as a certified public accountant issued by or under the authority of any state or possession of the United States or the District of Columbia, and who has had experience outside of this State in the practice of public accountancy that is deemed satisfactory to the board, or meets equivalent requirements prescribed by the board by regulation, after passing the examination upon which the applicant's license was based. If an applicant's certificate, license or permit was issued less than three years prior to the application for issuance of an initial license under this section, that applicant shall have also fulfilled the requirements of continuing professional education that would have been applicable under the rules of this State to be eligible for licensure under the provisions of this subsection.
- c. The board shall issue a license as a certified public accountant to a holder of a foreign designation, granted in a foreign country entitling the holder thereof to engage in the practice of public accountancy if:
 - (1) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid license issued by this State to obtain that foreign authority's comparable designation; and
 - (2) The foreign designation:
 - (a) was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

- (b) entitles the holder to issue reports upon a financial statement; and
 - (c) was issued upon the basis of educational, examination, and experience requirements established by the foreign authority or by law; and
- (3) The applicant:
- (a) received the designation, based on educational and examination standards substantially equivalent to those in effect in this State, at the time the foreign designation was granted;
 - (b) completed an experience requirement, substantially equivalent to the requirement set out in section 10 of this act,¹ in the jurisdiction which granted the foreign designation, or has completed five years of experience in the practice of public accountancy in this State; or meets equivalent requirements prescribed by the board, within the 10 years immediately preceding the application; and
 - (c) passed a uniform qualifying examination in national standards acceptable to the board and an examination on the laws, regulations and code of ethical conduct in effect in this State.

An applicant seeking licensure under this subsection shall in the application list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy, and each holder of a license issued under this subsection shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

¹ N.J.S.A. § 45:2B-51.

45:2B-54. Registration of firm as Public Accountants

- a. A firm engaged in this State in the practice of attest services shall be required to register with the board as a firm of certified public accountants and meet the following requirements:
 - (1) At least one owner of the firm shall be a certified public accountant in good standing, and licensed to practice public accountancy in this State;

- (2) Each owner of the firm, other than a nonlicensee, shall be a certified public accountant of any state or possession of the United States or the District of Columbia in good standing, and licensed to practice public accountancy where licensed;
 - (3) There shall be a certified public accountant in the firm who has ultimate responsibility for each attest engagement. On all firm applications and renewal forms, a licensee shall be designated as responsible and in charge of all professional matters relating to the practice of accountancy by the registered firm. Each resident manager in charge of a practice unit of a firm in this State and each owner thereof personally engaged within this State in the practice of public accountancy shall be a certified public accountant in good standing, and licensed to practice public accountancy in this State.
- b. Application for registration of a firm shall be made upon the affidavit of an owner of the firm who is a certified public accountant in good standing and licensed to practice public accountancy in this State. The board shall in each case determine whether the applicant is eligible for registration. A firm which is so registered may use the words “certified public accountant” or the abbreviation “CPAs” in connection with its firm name. Notification shall be given to the board within 90 days after admission or withdrawal of an owner licensed and practicing in this State from any firm so registered.

45:2B-54.1. Private accounting firms; ownership by non-licensed individuals; requirements

- a. A firm lawfully engaged in this State in the practice of public accountancy may have owners who are not licensed as certified public accountants or public accountants if it meets the following requirements:
- (1) Nonlicensee owners shall be natural persons or entities, including, but not limited to, partnerships and professional corporations, provided that each ultimate beneficial owner of an equity interest in that entity shall be a natural person materially participating in the business conducted by the firm or entity affiliated with the firm;

- (2) The ownership interest of nonlicensee owners shall revert to the firm upon the cessation of any material participation by the nonlicensee owner in the business conducted by the firm or entity;
- (3) Persons who are licensed to practice public accountancy in any state or possession of the United States or the District of Columbia shall in the aggregate, directly or beneficially, comprise not less than half of the owners, hold more than half of the equity capital, and possess majority voting rights of the firm; and
- (4) Nonlicensee owners shall not hold themselves out as certified public accountants or public accountants.

A financial services corporation the voting stock of which is traded on a recognized exchange or over the counter, may use the truthful fact in advertising that the firm employs certified public accountants.

- b. Except as otherwise permitted by the board, a person shall not become a nonlicensee owner or remain a nonlicensee owner if the person has:
 - (1) Been convicted of any crime, an element of which is dishonesty or fraud, under the laws of this State or any other state, of the United States, or of any other jurisdiction. A conviction includes the initial plea, verdict, or finding of guilty, pleas of no contest, or pronouncement of sentence by a trial court, notwithstanding that conviction may not be final or sentence actually imposed until appeals are exhausted;
 - (2) Had a professional license or the right to practice revoked or suspended for reasons other than nonpayment of fees, or has voluntarily surrendered a license or right to practice with disciplinary charges or a disciplinary investigation pending, which license or right to practice has not been reinstated by a licensing agency of this State or any other state, of the United States, or of any other jurisdiction;
 - (3) Been in violation of P.L.1997, c. 259 (C.45:2B-42 et seq.) or any regulation promulgated by the board under that act.
- c. A nonlicensee owner of a licensed firm shall report to the board in writing of the occurrence of any of the events set forth in subsection b. of this section within 30 days of the date the nonlicensee owner has knowledge of the event. The report shall identify the

event by the name of the agency or court, the title of the matter, the docket number, and the date of occurrence of the event.

45:2B-55. Registration of firm as Public Accountants

- a. A firm engaged in this State in the practice of public accountancy shall be eligible to register with the board as a firm of public accountants if it meets the following requirements:
 - (1) At least one owner of a firm shall be a public accountant in good standing, and licensed to practice public accountancy in this State;
 - (2) Each owner of the firm, other than a nonlicensee, shall be a public accountant of any state or possession of the United States or the District of Columbia in good standing, and licensed to practice public accountancy where licensed, except that nothing in this section shall preclude a certified public accountant from being an owner of a firm of public accountants;
 - (3) There shall be a public accountant in the firm who has ultimate responsibility for each attest engagement. On all firm applications and renewal forms, a licensee shall be designated as responsible and in charge of all professional matters relating to the practice of accountancy by the registered firm. Each resident manager in charge of a practice unit of a firm in this State and each owner thereof personally engaged within this State in the practice of public accounting shall be a public accountant or a certified public accountant of this State in good standing and licensed to practice public accountancy in this State.
- b. Application for registration of a firm shall be made upon the affidavit of an owner of the firm who is a public accountant of this State in good standing and licensed to practice public accountancy in this State. The board shall in each case determine whether the applicant is eligible for registration. A firm which is so registered may use the words "public accountant" or the abbreviation "PAs" in connection with its firm name. Notification shall be given to the board within 90 days after admission or withdrawal of an owner licensed and practicing in this State from any firm so registered.

45:2B-56. Registration for temporary practice

Temporary practice in this State by a licensed certified public accountant or public accountant or firm of another state or by a holder of a comparable foreign designation may be permitted on business incident to that person's regular practice outside this State; but only if the applicant registers with the board and complies with its requirements. Registration shall not be required if services within this State do not exceed a total of 12 days in a calendar year.

45:2B-57. Triennial firm registration fee

Each firm established or maintained in this State for the practice of public accountancy by certified public accountants or public accountants shall triennially register with and pay to the board a triennial registration fee. Each practice unit shall be under the direct supervision of a resident manager who may be either an owner or a staff employee licensed under this act.

45:2B-58. Triennial renewal of individual license; fees

Every certified public accountant and public accountant licensed to practice public accountancy within this State shall renew his license triennially with the board and pay a triennial license fee established by the board by regulation.

Notice of the failure to renew a license and pay the triennial license fee shall be given to any person who fails to do so within 60 days following the license expiration date, which notice shall state that, upon the continued failure to pay that fee, the license issued to that individual will be forfeited at the time and place stated in the notice, unless the fee is paid by the specified time. The board may make rules regarding the reissuance of a license to any person whose license has been forfeited under this section.

An individual paying the triennial license fee, in addition to furnishing any other information which the board may require, shall state in the application whether any license as a certified public accountant or public accountant or any charter as a chartered accountant or any other license, permit or registration to practice public accountancy ever issued to or made for that individual by any state or political subdivision of the United States, or by any foreign country or political subdivision thereof, or by any professional accounting organization, has been revoked or suspended, and, if so, state those facts relating to that revocation or suspension as the board may require.

No certified public accountant, public accountant, registered municipal accountant or public school accountant of this State, who has not renewed his license pursuant to the requirements of this section, shall, during that period, hold himself out to be engaged in practice as a certified public accountant, public accountant, registered municipal accountant or public school accountant within this State.

45:2B-59. Disciplinary actions by board; notice and hearing; grounds; costs

- a. After notice and an opportunity to be heard, the board may: revoke any license or registration issued under this act; suspend any license or registration or refuse to renew any license or registration; reprimand, censure, or limit the scope of practice of any licensee; impose an administrative fine; or place any licensee on probation, for any of the following reasons:
 - (1) Fraud, deceit or misrepresentation in obtaining a license or registration;
 - (2) Cancellation, revocation, suspension or refusal to renew the authority to engage in the practice of public accountancy in any other state for reasons consistent with this section;
 - (3) Failure, on the part of a holder of a license or registration, to maintain compliance with the requirements for issuance or renewal of that license or registration or to report changes to the board in the name or composition of any firm or individual licensed or registered in this State, or a change in the status of a license of a firm licensed in any other jurisdiction;
 - (4) Revocation or suspension of the right to practice before any state or federal agency;
 - (5) Dishonesty, fraud, gross negligence or repeated acts of negligence in the practice of public accountancy or in the filing or failure to file the licensee's or registrant's own income tax returns;
 - (6) Violation of any provision of this act or regulation promulgated by the board under this act;
 - (7) Violation of any rule of professional conduct promulgated by the board under this act;

- (8) Conviction of a crime, an element of which is dishonesty or fraud, under the laws of the United States, of this State, or any other state, if the acts involved would have constituted a crime of the first, second, third or fourth degree under the laws of this State;
 - (9) Performance of any fraudulent act while holding a license or registration issued under this act, or prior laws regulating accountants in this State;
 - (10) Any conduct reflecting adversely upon the licensee's fitness to engage in the practice of public accountancy;
 - (11) If the licensee is incapable for medical or any other good cause of discharging the functions of a licensee in the manner consistent with the public's health, safety and welfare; or
 - (12) The failure of an individual or a firm to have all the qualifications prescribed by any provision of this act under which the individual or firm qualified for registration or licensing.
- b. The board may impose any other disciplinary sanction or civil penalties pursuant to the provisions of P.L.1978, c. 73 (C.45:1-14 et seq.).
 - c. In lieu of or in addition to any remedy provided in subsection a. or b. of this section, the board may require of a licensee or registrant:
 - (1) A quality review conducted in a manner as specified by the board in accordance with the provisions of section 26 of this act.¹
 - (2) Satisfactory completion of continuing professional education programs required by the board pursuant to the provisions of section 27 or 30 of this act.²
 - (3) Appropriate community service as the board may require.
 - d. In any proceeding in which a remedy provided by subsection a., b. or c. of this section is imposed, the board may also require the respondent licensee or registrant to pay the cost of the proceeding.

¹ N.J.S.A. § 45:2B-67.

² N.J.S.A. §§ 45:2B-68 or 45:2B-71

**45:2B-60. Modification of suspension; reissuance of
license or registration**

- a. In any case where the board has suspended or revoked a license or registration or refused to renew a license or registration, the board may, upon application in writing by the person or firm affected and for good cause shown, modify the suspension, or reissue the license or registration.
- b. The board shall prescribe the manner in which such an application shall be made, the time within which it shall be made, and the circumstances in which hearings or applications will be held.
- c. Before reissuing, or terminating the suspension of a license or registration under this section, and as a condition of reissuance or termination of suspension, the board may require the applicant to show successful completion of the continuing professional education requirements of this act; and the board may make the reinstatement of a license or registration conditional and subject to satisfactory completion of a quality review conducted in a manner required by the board.

**45:2B-61. Reports on review of financial statements;
qualified individuals**

- a. No individual or firm shall issue a report on financial statements of any other individual, firm, organization, or governmental unit unless that person or firm holds a valid license or registration issued under this act, except that this prohibition shall not apply to: an officer, partner, member, manager or employee of any firm or organization affixing that person's own signature to any statement or report in reference to the financial affairs of that firm or organization with any wording designating the position, title or office that the person holds in the firm or organization; any act of a public official or employee in the performance of that person's duties; the performance by any person of other services involving the use of accounting skills, including the preparation of tax returns or financial statements prepared without the issuance of reports, or providing a management advisory service.
- b. The prohibition contained in subsection a. of this section is applicable to the issuance, by a person not holding a valid license or a firm not holding a valid registration, of a report using any form of

language conventionally used by licensees respecting review of financial statements or compilation of financial statements.

45:2B-62. Use of titles or designations

- a. No person shall use or assume the title or designation “certified public accountant,” or the abbreviation “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant unless that person holds a current license as a certified public accountant under this act.
- b. No firm shall assume or use the title or designation “certified public accountant,” or the abbreviation “CPA,” unless otherwise provided for by law, or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants, unless the firm holds a valid registration issued under this act, except that a financial services firm, the voting stock of which is traded on a recognized exchange or over the counter, shall not, solely by reason of any of its duly licensed employees holding themselves out as “certified public accountants,” be deemed to be holding itself out as a firm of “certified public accountants”.
- c. No individual shall assume or use the title or designation “public accountant,” or the abbreviation “PA,” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a public accountant unless that individual holds a valid registration as a public accountant as provided under this act.
- d. No firm shall assume or use the title or designation “public accountant,” or the abbreviation “PA,” unless otherwise provided for by law, or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of public accountants, unless the firm holds a valid registration issued under this act.
- e. No person or firm shall assume or use the title or designation “certified accountant,” “chartered accountant,” “enrolled accountant,” “licensed accountant,” “registered accountant,” “accredited accountant,” or any other title or designation likely to be confused with the titles “certified public accountant” or “public accountant,” or use any of the abbreviations “CA,” “LA,” “RA,” “AA,” or similar

abbreviations likely to be confused with the abbreviations “CPA” or “PA,” unless that person or firm holds a valid license or registration issued under this act.

- f. No person or firm shall assume or use the title “enrolled agent” or “EA,” unless so designated by the Internal Revenue Service.
- g. No person or firm shall assume or use any title or designation that includes the words “accountant,” “auditor,” or “accounting” in connection with any other language, including the language of a report, that implies that the person or firm holds such a certificate, permit, or registration or has special competence as an accountant or auditor, unless that person or firm holds a valid license or registration issued under this act, except that this subsection shall not prohibit any officer, partner, member, manager, or employee of any firm or organization from affixing that person’s own signature to any statement in reference to the financial affairs of that firm or organization with any wording designating the positions, title, or office that the person holds in the firm or organization, nor shall this subsection prohibit any act of a public official or employee in the performance of the person’s duties.
- h. No person holding a license or firm holding a registration under this act shall engage in the practice of public accountancy using a professional or firm name or designation that is misleading with regard to the form in which the firm is organized, or about the persons who are partners, officers, members, managers or shareholders of the firm, or about any other matter, except that names of one or more former partners, members, managers, or shareholders may be included in the name of a firm or its successor.
- i. The provisions of this section shall not apply to a person or firm holding a certification, designation, degree, or license granted in a foreign country, entitling the holder thereof to engage in the practice of public accountancy or its equivalent in that country, whose activities in this State are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds that entitlement, so long as that person or firm issues no reports with respect to the financial statements of any other persons, firms, or governmental units in this State, and does not use in this State any titles or designation other than the one under which the person practices in the foreign country, followed by a translation of that

title or designation into the English language, if it is in a different language, and by the name of that country.

45:2B-63. Referrals by board to civil or criminal law enforcement agencies; immunity

Whenever, by reason of an investigation, the board shall have reason to believe that there has been a violation of the laws of this State, the board may refer the matter and any information pertaining to the matter to the Attorney General of this State or the appropriate civil or criminal law enforcement authority. Each member of the board shall have immunity from any civil or criminal liability on account of these referrals, unless a member has acted in bad faith or with malicious purpose.

45:2B-64. Disciplinary action warranted by commission of single prohibited act

In any action brought under this act, evidence of the commission of a single act prohibited by this act shall be sufficient to justify a penalty, injunction, restraining order, or conviction, respectively, without evidence of a general course of conduct.

45:2B-65. Disclosure of information

Except by permission of the client engaging a licensee or firm under this act, or the heirs, successors, or personal representatives of that client, no licensee or partner, officer, member, manager, shareholder, or employee of a licensee or firm shall disclose information communicated to the licensee or firm by the client relating to and in connection with services rendered to the client by the licensee or firm in the practice of public accountancy. Such information shall be deemed confidential; except that nothing herein shall be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in court proceedings, investigations or proceedings under this act, in ethical investigations conducted by private professional organizations, or in the course of quality reviews.

45:2B-66. Retention, ownership and transfer of licensee's working papers

- a. All statements, records, schedules, working papers, memoranda or other records made by a licensee or a partner, shareholder, officer, director, member, manager or employee of a licensee or firm, inci-

dent to, or in the course of, rendering services to a client in the practice of public accountancy, except the reports submitted by the licensee or firm to the client and except for records that are part of the client's records, shall be and remain the property of the licensee or firm, unless there is an express agreement between the licensee or firm and the client to the contrary. No such statement, record, schedule, working paper, or memorandum shall be sold, transferred, or bequeathed, without the consent of the client or the client's designated representative or assignee, to anyone other than one or more surviving partners, shareholders, members or new partners, new shareholders, or new members of the licensee or firm, or any combined or merged firm or successor in interest to the licensee or firm. Nothing in this section shall prohibit any temporary transfer of working papers or other material necessary in the course of carrying out quality reviews or as otherwise interfering with the disclosure of information pursuant to this act.

- b. A licensee shall furnish to a client or former client, upon request and reasonable notice:
 - (1) A copy of the licensee's working papers or other records, to the extent that these would ordinarily constitute part of the client's records and are not otherwise available to the client; and
 - (2) Any accounting or other records belonging to the client, or obtained from or on behalf of the client, that the licensee or firm removed from the client's premises or received for the client's account. The licensee or firm may make and retain copies of such documents of the client when they form the basis for work done by the licensee or firm.
- c. Nothing contained in this section shall require a licensee or firm to keep any working papers beyond the period prescribed in any other applicable statute.

45:2B-67. Quality Enhancement Program

- a. The board may adopt regulations establishing a Quality Enhancement Program for the review of audits, reviews, compilations or other reports issued by licensees or firms engaged in the practice of public accountancy in this State to determine whether the reports comply with accepted accounting and auditing standards.

- b. Each licensee or firm may be required to submit copies of audits, reviews, compilations or other reports as required by the board.
- c. The Quality Enhancement Program established under this section may include procedures for review of the reports submitted and for follow-up reviews and remedial and other actions to be taken in cases of reports which are deficient or in some other manner are not in compliance with applicable accounting and auditing standards. The board may exempt firms which have reports reviewed under a program conducted by other states or other public or private entities which the board finds to be equal to or to exceed the Quality Enhancement Program established under this act.

45:2B-68. Continuing professional education

- a. The board shall, as a condition for triennial license renewal, require any person licensed as a “certified public accountant,” or “public accountant,” to complete 120 credits of continuing professional education during the immediately preceding triennial period of licensure. Persons who are engaged in the practice of public accountancy, or are involved with the attest function in issuing an audit, review or compilation reports, shall have at least 24 of the required credits in the areas of accounting or auditing. Each credit of continuing professional education required pursuant to this section shall represent, or be equivalent to, 50 minutes of verified course attendance at a course or seminar approved by the board.
- b. The board may, in its discretion, waive requirements for continuing professional education on an individual basis for hardship reasons such as health, military service, or other due cause and may establish a policy for the continuing education requirements for inactive or retired accountants who remain certified or registered.
- c. The board shall not require completion of continuing education credits as a condition for triennial licensure for the initial renewal of licensure.
- d. The board shall:
 - (1) establish standards for continuing professional education, including the subject matter, contents of courses of study, and the number of credits required;

- (2) accredit educational programs and sponsors of educational programs offering credit towards the continuing professional education requirements; and
- (3) accredit other equivalent educational programs, such as teaching, conferences, professional seminars, technical reviews, courses with non-hourly attendance, including home study courses, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

45:2B-69. Laws or regulations requiring Certified Public Accountants

Whenever any law or regulation requires professional services to be performed by a certified public accountant, that requirement shall be construed to mean certified public accountant or public accountant.

45:2B-70. Audits of municipalities or counties

Only a certified public accountant licensed in this State or a registered municipal accountant licensed in this State prior to 1985 shall undertake the work of auditing any municipality or county. Such an individual shall qualify as a registered municipal accountant (RMA) of New Jersey by passing a registered municipal accountant's examination and by subscribing to the following declaration:

- a. That the individual is fully acquainted with the laws controlling and governing the finances of municipalities and counties of New Jersey; and
- b. That the individual will honestly and faithfully audit the books and accounts of a municipality or county when engaged to do so, and report any error, omission, irregularity, violation of law, discrepancy or other nonconformity to the law, together with his recommendations to the governing body of that municipality or county.

The board shall make all rules governing examinations and the issuance of licenses to registered municipal accountants.

The registration fee for a certified public accountant, duly licensed under this act, to practice as a registered municipal accountant of New Jersey,

shall be established by the board, and shall be imposed for each triennial registration.

45:2B-71. Municipal Accountants; continuing professional education

The board shall require any person licensed as a registered municipal accountant, as a condition for triennial licensure, to complete the required number of credits of continuing professional education as determined by the board during each triennial period of licensure. Persons who are engaged in the practice of municipal auditing shall have at least one-third of the required credits in the areas of accounting or auditing.

Each credit of continuing professional education required pursuant to this section shall represent or be equivalent to 50 minutes of verified course attendance at a course or seminar approved by the board.

45:2B-72. Audit reports for municipalities or counties; signature

A report of audit of a municipality or county shall be signed by the registered municipal accountant making the audit or in charge of the audit.

45:2B-73. Audits of school districts; qualifications

Any person who undertakes the work of auditing the accounts of any school district in New Jersey shall qualify as a public school accountant (PSA) by:

- a. Submitting an application to the board, demonstrating satisfactorily to the board that the individual holds a current and valid license in New Jersey as a certified public accountant, public accountant, or registered municipal accountant, and paying the required fee;
- b. Renewing the license triennially and paying the required fee; and
- c. Subscribing that the individual: (1) is fully acquainted with the laws controlling and governing the finances of school districts of New Jersey; and (2) will honestly and faithfully audit the books and accounts of any school district when engaged to do so, and report any error, omission, irregularity, violation of law, discrepancy or other nonconformity to the law, together with recommendations to the board of education in charge of that school district.

45:2B-74. Audits of school districts; signature

A report of audit of a school district shall be signed by the public school accountant making the audit or in charge of the audit.

45:2B-75. Regulations promulgated by board

This act shall not affect the regulations currently in effect and promulgated by the board, and those regulations that are consistent with the purposes and provisions of this act shall continue with full force and effect until amended, modified or repealed by the board established pursuant to this act.

New Jersey Statutes Annotated

Title 45, Chapter 1.

Uniform Enforcement Act

ARTICLE 1. GENERAL PROVISIONS RELATING TO ALL PROFESSIONS AND OCCUPATIONS AFFECTED BY THIS SUBTITLE

45:1-1. Persons entitled to practice, etc. under former laws unaffected

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

ARTICLE 2. GENERAL PROVISIONS RELATING TO CERTAIN STATE BOARDS OF REGISTRATION AND EXAMINATION

45:1-2. Repealed by L.1971, c.60, § 5, eff. March 25, 1971

45:1-2.1. Professional boards and commissions; application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hair-styling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State

Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, and the State Board of Public Movers and Warehousemen.¹

¹ Abolition of State Board of Public Movers and Warehousemen and transfer of functions, powers and duties to the Division of Consumer Affairs. See Reorganization Plan No. 008-1998, set out under § 45:14D-4.

45:1-2.2. Appointment of members by governor; public members; member from department in executive branch; quorum; vote necessary for action

- a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.
- b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: The New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission

and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

- c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C. 45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.
- d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

45:1-2.3. Qualifications; rights and duties

Such additional members:

- a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and
- b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

45:1-2.4. Effect of act on term of member in office

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

45:1-2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms of employment; offices and meeting places

With respect to the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

- a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.
- b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.
- c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such of-

fice or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.

- d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

45:1-2.6. Inapplicability of act to rights under civil service or any pension law or retirement system

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service,¹ or any pension law or retirement system.

¹Now title 11A.

45:1-3. Expenses of boards paid from income; surplus paid to state treasurer; accounts

Each member of the boards mentioned in section 45:1-2¹ of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and

expenditures, which accounts shall be subject to audit by the state comptroller.

¹Repealed; see, now, §§ 45:1-2.1, 45:1-2.2.

45:1-3.1. Application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, and the State Board of Social Work Examiners.

45:1-3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act ¹ may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C. 52:14B-1).

Any board's or commission's charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

45:1-3.3. Administrative fees charged by boards; modification

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). For purposes of this section, “administrative fees” are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2¹ of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

¹Repealed. See, now, §§ 45:1-2.1, 45:1-2.2.

45:1-5,

45:1-6. Repealed by L.1979, c.432, § 4, eff. Feb. 14, 1980

45:1-7. Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof,

provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

45:1-7.1. Application to holders of professional or occupational licenses

- a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c.403 (C.45:1-7.2 et al.) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C.45:1-15), who seeks renewal of that license or certificate.
- b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.
- c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.
- d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years

past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.

- e. A board specified in section 2 of P.L. 1978, c.73 (C. 45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

45:1-7.2. Reinstatement

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;
- b. Payment of a reinstatement fee;
- c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and
- d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

45:1-7.3. Renewal applications

- a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.
- b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon appli-

cation to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable.

45:1-8. Contractors; application of § 45:1-9

The provisions of this act apply to the following classes of contractors:

- a. Tree experts, certified pursuant to P.L.1940, c.100 (C. 13:1-28 et seq.¹);
- b. Home repair contractors, licensed pursuant to P.L.1960, c.41 (C. 17:16C-62 et seq.);
- c. Electrical contractors, licensed pursuant to P.L.1962, c.162 (C. 45:5A-1 et seq.);
- d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);
- e. Well drillers, licensed pursuant to P.L.1947, c.377 (C. 58:4A-5 et seq.); and
- f. Any class of contractors who hereafter are licensed by the State.

¹Renumbered C. 45:15C-1 to 45:15C-10.

45:1-9. Indication of license or certificate number on contracts, bids and advertisements

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

45:1-10. Disclosure of laboratory payments on bills to patients and third party payors

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

45:1-10.1. Claims for third party payment; licensed health care professional; responsibility for filing

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

- a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).
- b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.
 - (1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.
 - (2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discre-

tion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.

- c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).
- d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of \$250 for each violation plus \$50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

45:1-11. Violations; penalty

Any person violating this act shall be guilty of a misdemeanor.

45:1-12. Podiatrist, optometrist or psychologist or professional service corporation; charge for completion of claim form for health insurance; fine; collection and enforcement

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

45:1-13. Repealed by L.1999, c.403, § 12, eff. Jan. 18, 2000

45:1-14. Legislative findings and declarations; liberal construction of act

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

45:1-15. Boards and professions or occupations regulated by or through such boards; application of act

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech-Language Pathology Advisory Committee.

45:1-15.1. Rules and regulations

Consistent with their enabling acts, P.L.1978, c.73 (C.45:1-14 et seq.) and the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), the boards and others set forth in section 2 of P.L.1978, c.73 (C.45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

“Board” means any professional or occupational licensing board designated in section 2 of this act.¹

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

¹Section 45:1-15.

45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

- a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c.410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings be-

fore the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.

- b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.
- c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

45:1-18. Investigative powers of boards, director or attorney general

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General

acting independently, may exercise any of the following investigative powers:

- a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;
- b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;
- c. Inspect any premises from which a licensed profession or occupation is conducted;
- d. Examine any goods, ware or item used in the rendition of any professional or occupational service;
- e. Examine any record, book, document, account or paper maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation;
- f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

45:1-19. Failure or refusal to file statement or report, refusal of access to premises or failure to obey subpoena; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a sub-

pena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

45:1-20. Compelling testimony or production of book, paper or document; immunity from prosecution

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

45:1-21. Grounds for refusal to admit to examination or denial, suspension or revocation of any certificate, registration or license; definitions

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license.

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

- c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
- d. Has engaged in repeated acts of negligence, malpractice or incompetence;
- e. Has engaged in professional or occupational misconduct as may be determined by the board;
- f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
- l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;

- m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;
- n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
- o. Advertised fraudulently in any manner.

For purposes of this act:

“Completed application” means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c. 421 (C.13:1D-101), for the class or category of permit for which application is made.

“Permit” has the same meaning as defined in section 1 of P.L.1991, c. 421 (C.13:1D-101).

45:1-21.1. Annual summary of compliance information and attendance at continuing education seminars; costs; information deemed public records

- a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c.418 (C. 13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c.418 (C. 13:1D-110) regarding compliance with the department’s requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c.419 (C. 13:1D-117).
- b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c.46 (C. 45:1-3.2).
- c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c.73 (C. 47:1A-1 et seq.).

45:1-21.2. Suspension of certain licenses; hearing

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

45:1-22. Additional or alternative penalties to revocation, suspension or refusal to renew; temporary order suspending or limiting license; subpena

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

- a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;
- b. Assess civil penalties in accordance with this act;
- c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;
- d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;

- e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

45:1-24. Failure to comply with order of board directing payment of penalties or restoration of moneys or property; enforcement

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to the Penalty Enforcement Act, (N.J.S. 2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

45:1-25. Violations; civil penalty; action to collect or enforce

Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

- (1) an administrative or court order has been entered in a prior, separate and independent proceeding;

- (2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or
 - (3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.
- b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to “the penalty enforcement law” (N.J.S.A. 2A:58-1 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant’s arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.
- c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

45:1-26. Repeal of inconsistent acts and parts of acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

45:1-27. Severability

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

New Jersey Administrative Code

Title 13, Chapter 29.

New Jersey State Board of Accountancy

SUBCHAPTER 1. GENERAL RULES

13:29-1.1 Establishing name of Board

The Board shall be known as the New Jersey State Board of Accountancy, and shall maintain an office in the State of New Jersey for the regular transaction of its business.

13:29-1.2 Meetings

- (a) The Board shall hold an annual meeting, in each year, in the month of April for the purpose of electing officers, from among its members, each for the term of one year, or until a qualified successor has been duly elected.
- (b) Regular monthly meetings will be held in accordance with a published schedule of meetings. Special meetings may be held at the request of any Board member.

13:29-1.3 Applications; applicant qualifications

- (a) Application forms for original examination, reexamination shall be furnished by the Board upon request.
- (b) Applications for examination shall be filed with the Executive Director of the Board on or before February 1 for the May examination, and on or before August 1 for the November
- (c) Applicants shall appear upon request before the Board or any Committee appointed by the Board for the purpose of determining whether the applicant satisfies the requirements set forth at N.J.A.C. 13:29-1.6.
- (d) Any applicant who is reexamined in any subject shall qualify under the rules in effect at the time the application for reexamination is filed.
- (e) An applicant who obtains a baccalaureate degree before June 30, 2000 shall successfully pass the examination by June 30, 2005 in order to qualify for licensure based on the educational requirements in effect prior to July 1, 2000. If the applicant has not passed all parts of the examination by June 30, 2005, the applicant shall for-

feit all conditional credits earned pursuant to N.J.A.C. 13:29-1.7, and shall satisfy the 150-hour educational requirement set forth in N.J.A.C. 13:29-1.6(b) prior to sitting for the next examination.

13:29-1.4 Notification of change of address; service of process

- (a) A licensee of the Board of Accountancy shall notify the Board in writing of any change of address from that currently registered with the Board and shown on the most recently issued license. Such notice shall be sent to the Board by certified mail, return receipt requested, not later than 30 days following the change of address.
- (b) Failure to notify the Board of any change of address pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h) and the imposition of the penalties set forth in N.J.S.A. 45:1-25.
- (c) Service of any administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and commencement of any disciplinary proceedings.

13:29-1.5 Filing constitutes agreement

The act of filing an application for examination, or a certificate by endorsement, shall constitute an agreement on the part of the applicant that he will observe and conform to the requirements of this chapter.

13:29-1.6 Applications for original examination; education and experience requirements

- (a) Applications for original examination shall be accompanied by the following items:
 - 1. A two-inch by two-inch passport photograph, front view, without a hat, taken within 30 days prior to filing an application; and
 - 2. An evaluation of educational credentials from CPA Examination Services, 150 Fourth Avenue, Nashville, TN 37219, telephone 1-800-CPA-EXAM (272-3926), certifying that the applicant has met the educational requirements set forth in (b) below.
- (b) An applicant for original examination shall satisfy the following educational requirements:

1. Until July 1, 2000, an applicant shall possess a baccalaureate degree, or its equivalent, based upon a curriculum that includes a minimum of 60 semester hours selected from courses in English, history, foreign languages, mathematics, general psychology, philosophy, biological sciences, physical sciences, economics, sociology, religion, government, political science, geography, fine arts and music; and a minimum of 60 semester hours in professional courses including: at least 24 semester hours in accounting including municipal and government accounting; at least six semester hours in business law; at least six semester hours in finance; at least six semester hours in economics; and at least 18 semester hours in related business subjects;
2. After July 1, 2000, an applicant for original examination shall have completed at least 150 hours of education, including a baccalaureate or higher degree, subject to the provisions of N.J.A.C. 13:29-1.3(e). An applicant shall be deemed to have satisfied the educational requirement if, as part of the 150 semester hours of education, the applicant has satisfied any one of the following four conditions:
 - i. The applicant has earned a graduate degree with a concentration in accounting from an accounting program or department which has been granted level three accreditation by the American Assembly of Collegiate Schools of Business (AACSB), the Association of Collegiate Business Schools and Programs (ACBSP), or any other national accreditation agency with standards that are substantially similar to the standards utilized by the AACSB or the ACBSP;
 - ii. The applicant has earned a graduate degree from a business school or college of business which has been granted level two accreditation by the AACSB, ACBSP or any other national accreditation agency with standards that are substantially similar to the standards utilized by the AACSB or the ACBSP, and completed either (b)2ii(1) or (2) below. An applicant may complete an equivalent combination of undergraduate and graduate level coursework based upon a 3:2 ratio such that three credit hours at the undergraduate level are equivalent to two credit hours at the graduate level. The applicant shall have completed either:

- (1) At least 24 semester hours in accounting at the undergraduate level; or
 - (2) At least 15 semester hours in accounting at the graduate level which included coursework in financial accounting, auditing, taxation and management accounting;
- iii. The applicant has earned a baccalaureate degree from a business school or college of business which has been granted level two accreditation by AACSB, ACBSP or any other national accreditation agency with standards that are substantially similar to the standards utilized by the AACSB or the ACBSP, and completed the following:
 - (1) At least 24 semester hours in accounting at the undergraduate level or the graduate level, which included coursework in financial accounting, auditing, taxation and management accounting; and
 - (2) At least 24 semester hours in business courses (other than accounting courses) at the undergraduate level;
- iv. The applicant has earned a baccalaureate or higher degree from an educational institution which has been granted level one accreditation from the Middle States Association of Colleges and Schools, Commission on Higher Education or any other regional accrediting agency with standards that are substantially similar to the standards utilized by the Middle States Association of Colleges and Schools, Commission on Higher Education. The applicant shall have completed the following:
 - (1) At least 30 semester hours in accounting, which included coursework in financial accounting, auditing, taxation and management accounting; and
 - (2) At least 24 semester hours in business courses (other than accounting courses) at the undergraduate or graduate level.
- (c) An applicant for examination for the Certified Public Accountant's license who meets the requirements of (b) above to the Board's satisfaction shall be granted admission to sit for the Uniform Certified Public Accountant Examination.

- (d) An applicant who has passed all parts of the Uniform Certified Public Accountant Examination shall furnish evidence of one year of intensive and diversified experience in the practice of public accounting or its equivalent under the supervision of a Board licensee. Experience shall be obtained in full-time regular employment based on a minimum of 35 hours per week. Part time experience shall be considered equivalent if acquired within two consecutive years and in no less than the same amount of hours required for full time experience. Experience shall be considered intensive and diversified if experience is acquired in the areas of auditing or accounting. Such evidence shall take the form of a notarized affidavit on the employer's letterhead indicating in detail the nature of the intensive and diversified experience in auditing or accounting.
- (e) In lieu of the experience required in (d) above, the Board shall accept four or more years of experience obtained by an applicant, prior to April 6, 1998, working in government, industry or education without the supervision of a licensed public accountant or a certified public accountant. The Board shall accept such experience until April 6, 2004.
- (f) In lieu of the experience required in (d) above, the Board shall accept four or more years of experience obtained by an applicant, on or after April 6, 1998, working in government, industry or education without the supervision of a licensed public accountant or a certified public accountant. The Board shall accept such experience until April 6, 2002.
- (g) The Board may, in its discretion, evaluate any and all accounting and auditing experience obtained by any applicant and give appropriate credit for said experience toward the experience required in this section.

13:29-1.7 Applications for reexamination; conditional credit

- (a) Applications for reexamination shall be allowed as follows in (b) below, and all fees shall be paid by check or money order.
- (b) Rules on conditional credit are as follows:
 - 1. A candidate who takes the examination for the first time shall be required to take all four sections. On reexamination, the candidate shall be required to take all sections for which he or she has not received conditional credit pursuant to (b)2 below.

2. The candidate who receives a passing grade of 75 or more in at least two of the four sections shall be granted conditional credit provided that the candidate also attains an average grade of 50 on those section(s) not passed.
3. To add to conditional credit pursuant to (b)2 above, the candidate shall attain a grade of 75 or more in the section(s) passed and a grade of 50 on the section not passed.
4. A candidate who received conditional credit for accounting practice alone prior to 1994 shall be granted conditional credit for passing an additional section provided that the candidate also attains an average score of 50 on the two remaining sections not passed.
5. In the event that a candidate fails to successfully complete the examination during the 10 examinations immediately following the first examination at which conditional credit was earned, the candidate shall forfeit all conditional credit, shall revert to the status of a new applicant, and shall be required to take all four sections of the examination.
6. The Board may, in the exercise of its discretion and under extenuating circumstances, extend the period within which conditional credits shall continue to be valid.
7. Conditional credits granted by other jurisdictions may, upon proper application to the Board, be considered for transfer. Credits determined under the laws and regulations of the issuing jurisdiction may be recognized by the Board provided the issuing jurisdiction's requirements, at a minimum, are equivalent to the requirements set forth in this rule. Conditional credits shall not be recognized unless such credits were obtained in a manner consistent with the provisions of (b)1, 2 and 3 above. In all cases, the duration of recognized conditional credit shall not be continued beyond the period determined by the rules of the Board.

13:29-1.8 Applications for license by endorsement

- (a) Applications for a license by endorsement shall be made on a form supplied by the Board that shall require applicants to provide the following information:

1. The month and year of the applicant's successful completion of the Uniform CPA Examination;
 2. A list of all states or jurisdictions in which the applicant holds or has ever held a license to practice accountancy;
 3. All academic degrees held by the applicant; and
 4. All experience and employment the applicant has obtained since being awarded his or her academic degree.
- (b) Applications for licensure by endorsement shall be accompanied by the following items:
1. The endorsement, initial license and application fees as set forth in N.J.A.C. 13:29-1.13;
 2. Written verification from the issuing authority in all foreign and domestic jurisdictions where the applicant holds a license, that the applicant's license in the jurisdiction is valid and in good standing, and setting forth the applicant's full name, license number and the date the license was issued.
- (c) Applicants shall appear upon request before the Board or any Committee appointed by the Board for the purpose of determining whether the applicant satisfies the requirements set forth at N.J.A.C. 13:29-1.6.

13:29-1.9 (Reserved)

13:29-1.10 Examinations

- (a) The Uniform Certified Public Accountant Examination shall be held on two consecutive days, in May and November of each year, at a place designated by the Board.
- (b) After the application has been approved, an admission card shall be mailed to the applicant which shall be used for admittance to the examination room. The card shall be kept in the possession of the applicant during the examination and handed to a proctor at the conclusion of the applicant's examination.
- (c) The Uniform Certified Public Accountant Examination shall be in writing, but this shall not bar additional examinations of such other nature as the Board may deem necessary.
- (d) Examination papers are the property of the Board and shall be left with the proctors.

- (e) Examination papers shall remain in the possession of the Board or its designee for a period of six months after each examination. Examination papers shall be destroyed after this six-month period has expired.
- (f) Applicants for examination shall be given a number for identification purposes and only this number shall be used on all papers.
- (g) The examination shall be the Uniform Certified Public Accountant Examination, prepared by the Board of Examiners of the American Institute of Certified Public Accountants. The advisory grading service provided by the American Institute of Certified Public Accountants shall be utilized and, to pass the examination, a candidate shall receive a minimum grade of 75 in each subject.
- (h) The New Jersey State Board of Accountancy shall grant credit for subjects which have been passed in another state which utilizes the American Institute of Certified Public Accountants Uniform Certified Public Accountant Examination, has conditional credit requirements equivalent to N.J.A.C. 13:29-1.7, and utilizes educational criteria comparable to N.J.A.C. 13:29- 1.6.

13:29-1.11 Licensee requirements; expired license

- (a) Applicants who satisfy the requirements of this subchapter shall pay the initial license fee as set forth in N.J.A.C. 13:29-1.13.
- (b) Every successful applicant shall comply with the Rules of Professional Conduct in N.J.A.C. 13:29-3.
- (c) A Certified Public Accountant shall renew his or her license for a period of three years from the last expiration date. A late renewal fee shall be charged for any renewal application received by the Board within 60 days after the applicable triennial registration date. After the 60th day, the Board may consider the license expired. Thereafter, the licensee shall be required to apply for reinstatement and to pay the reinstatement fee and the fee for the current registration period as set forth in N.J.A.C. 13:29-1.13.
- (d) A licensee who continues to engage in the practice of accountancy with an expired license shall be deemed to be engaging in the unauthorized practice of accountancy and shall be subject to the penalties set forth in N.J.S.A. 45:1-25 et seq.

13:29-1.12 Public School Accountant's license

The holder of a license as a Certified Public Accountant or registered municipal accountant shall be granted a Public School Accountant's license upon application to the Board, and the payment of a fee for a period of three years, as set forth in N.J.A.C. 13:29-1.13.

13:29-1.13 Fees

(a) Fees for original applications, examinations, reexaminations and renewals, for Certified Public Accountants, Public Accountants, partnerships, professional corporations, limited liability companies, or limited liability partnerships and for Certified Public Accountants' license by endorsement are as follows:

1. Application fee: \$75.00
2. Examination fee, Registered Municipal Accountant: \$225.00
3. Reexamination fee, Registered Municipal Accountant: \$175.00
4. Endorsement as Certified Public Accountant: \$100.00 plus the application fee as set forth in (a)1 above;
5. Initial license fee for Certified Public Accountant, Registered Municipal Accountant, partnerships, professional corporations, limited liability companies, limited liability partnerships:
 - i. During the first year of a triennial registration period: \$90.00
 - ii. During the second year of a triennial registration period: \$60.00
 - iii. During the third year of a triennial registration period: \$30.00
6. Triennial registration for Certified Public Accountant, Public Accountant, Registered Municipal Accountant, partnerships, professional corporations, limited liability companies, limited liability partnerships: \$90.00
7. Reinstatement of license: \$150.00
8. Late renewal fee: \$50.00
9. Triennial renewal, retired or inactive licensees: \$45.00

- (b) Entities filing an application to become Sponsors of Continuing Professional Education shall pay a fee of \$100.00 for administrative costs and evaluation of programs submitted.

1. Sponsor fees shall be charged on a biennial basis on the first business day of July of each odd numbered year.

13:29-1.14 Notification of convictions

Any licensee of the Board of Accountancy, upon conviction of any crime, shall notify the Board of Accountancy of such conviction in writing within 30 days.

SUBCHAPTER 2. REGISTERED MUNICIPAL ACCOUNTANTS

13:29-2.1 Applications; requirements

Every applicant for the Registered Municipal Accountant's examination shall submit to the Board a written application on a form to be provided by the Board and a two-inch by two-inch, passport photograph, front view, without a hat, taken within 30 days prior to application, provided that the applicant holds a New Jersey license to engage in the practice of public accountancy that is in good standing.

13:29-2.2 Examination

- (a) The Registered Municipal Accountant's examination shall be held in December of each year, at a place designated by the Board. Applications shall be filed with the Executive Director of the Board by November 1 for the December examination.
- (b) After the application has been approved, an admission card shall be mailed to the applicant which shall be used for admittance to the examination room. This card shall be kept in the possession of the applicant during the examinations and handed to a proctor at the conclusion of the examination.
- (c) The Registered Municipal Accountant's examination shall be in writing, but this shall not bar additional examinations of such other nature as the Board may deem necessary.
- (d) Examination papers are the property of the Board and shall be left with the proctors.
- (e) Examination papers shall remain in the possession of the Board or its designee for a period of six months after each examination, and during the six months, any applicant may make arrangement to

review the examination papers. Examination papers shall be destroyed after this six-month period has expired.

- (f) Applicants for the Registered Municipal Accountant's examination shall be given a number for identification purposes and only this number shall be used on all papers.
- (g) The Registered Municipal Accountant's examination shall include questions on the following:
 - 1. Theory of municipal accounting and problems in municipal accounting;
 - 2. Municipal law and finance;
 - 3. Auditing;
 - 4. Any additional related subjects as determined by the Board.
- (h) Applicants shall attain a grade of 75 in order to pass the Registered Municipal Accountant's examination.

13:29-2.3 Licensee requirements; expired license

- (a) The holder of a Registered Municipal Accountant's license shall renew the license for a period of three years from the last expiration date. A late renewal fee shall be charged for any renewal application received by the Board within 60 days after the applicable triennial registration date. After the 60th day, the Board may consider the license expired. Thereafter, the licensee shall be required to apply for reinstatement and to pay the reinstatement fee and the fee for the current registration period set forth in N.J.A.C. 13:29-1.13. A licensee who continues to practice with an expired license shall be deemed to be engaging in unauthorized practice and shall be subject to the penalties set forth in N.J.S.A. 45:1-25 et seq.
- (b) Applicants who have complied with all of the provisions in this subchapter and passed the Registered Municipal Accountant's examination shall comply with the Rules of Professional Conduct in N.J.A.C. 13:29-3.

SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT

13:29-3.1 Independence

- (a) A licensee or a firm of which he or she is a partner, member or a shareholder shall not express an opinion on financial statements of an entity or organization in such a manner as to imply that he or

she is acting as an independent public accountant with respect thereto unless he or she or his or her firm is independent with respect to such entity or organization. Independence shall be considered to be impaired if, for example:

1. During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, the licensee or his or her firm:
 - i. Was associated with the entity or organization as a promoter, underwriter or voting trustee, or as a director or officer or in any capacity equivalent to that of a member of management or of an employee; or
 - ii. Was a trustee for any pension or profit-sharing trust of the entity or organization.
2. During the period of this professional engagement, or at the time of expressing his or her opinion, the partner, member or firm:
 - i. Had or was committed to acquire any direct or material indirect financial interest in the entity or organization; or
 - ii. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the entity or organization; or
 - iii. Had any joint closely held business investment with the entity or organization or any officer, director or principal stockholder thereof which was material in relation to his or her firm's net worth; or
 - iv. Had any loan to or from the entity or organization or officer, director or principal stockholder thereof other than loans of the following kinds made by a financial institution under normal lending procedures, terms and requirements:
 - (1) Loans obtained by the licensee or his or her firm which are not material in relation to the net worth of the borrower;
 - (2) Home mortgages; and
 - (3) Other secured loans, except those secured solely by a guarantee of the licensee or the licensee's firm.

13:29-3.2 Integrity and objectivity

A licensee or the licensee's firm shall not knowingly misrepresent facts, and when engaged in the practice of public accounting, including the rendering of tax and management advisory services, shall not subordinate the licensee's judgment to others. In tax practice, a licensee or the licensee's firm may resolve doubt in favor of the licensee's client as long as there is reasonable support for the licensee's position.

13:29-3.3 Competence

A licensee or the licensee's firm shall not undertake any engagement for the performance of professional services which the licensee cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with N.J.A.C. 13:29-3.5 and 3.6.

13:29-3.4 Forecasts

A licensee or the licensee's firm shall not in the performance of professional services permit the licensee's name to be used in conjunction with any forecast of future transactions in a manner which may reasonably lead to the belief that the licensee vouches for the achievability of the forecast.

13:29-3.5 Auditing standards

A licensee of the licensee's firm shall not permit the licensee's name to be associated with financial statements in such a manner as to imply that the licensee is acting as an independent public accountant with respect to such financial statements unless the licensee has complied with applicable generally accepted auditing standards (GAAS). Statements on Auditing Standards (SAS) issued by the American Institute of Certified Public Accountants, and other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures therefrom shall be justified by those who do not follow them.

13:29-3.6 Accounting principles

- (a) A licensee or the licensee's firm shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles (GAAP) if such financial statements contain any departure from such accounting principles which has a material effect on the financial statements taken as a whole, unless the licensee can demonstrate that by reason of unusual circumstances the financial statements would otherwise have been mis-

leading. In such a case, the licensee's report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

- (b) For purposes of this rule, generally accepted accounting principles (GAAP) are considered to be defined by pronouncements issued by the Financial Accounting Standards Board (FASB) and its predecessor entities and similar pronouncements issued by other entities having similar general recognized authority.

13:29-3.7 Confidential client information

- (a) A licensee or the licensee's firm shall not without the consent of the licensee's client disclose any confidential information pertaining to the licensee's client obtained in the course of performing professional services.
- (b) This rule shall not:
 - 1. Relieve a licensee of any obligations under N.J.A.C. 13:29-3.5 and N.J.A.C. 13:29-3.6; or
 - 2. Affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of a court; or
 - 3. Prohibit disclosures in the course of a quality review of a licensee's professional services; or
 - 4. Preclude a licensee from responding to any inquiry made by the Board or any investigative or disciplinary body established by law or formally recognized by the Board.
- (c) Members of the Board and professional practice reviewers shall not disclose any confidential client information which comes to their attention from licensees or their firms in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to an investigative or disciplinary body of the kind referred to above.

13:29-3.8 Contingent fees

- (a) A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount

of the fee is otherwise dependent upon the finding or result of such service.

- (b) For the purposes of this section, a fee is not contingent if:
 - 1. It is fixed by a court or other public authority; or
 - 2. In tax matters, it is determined based on the results of a judicial proceeding or the findings of a governmental agency.
- (c) A licensee in public practice shall not receive a contingent fee for performing any professional services from a client for whom the licensee or the licensee's firm performs:
 - 1. An audit or review of a financial statement;
 - 2. A compilation of a financial statement accompanied by a report; or
 - 3. An examination of prospective financial information.
- (d) The prohibition set forth in (c) above applies during the period in which the licensee or the licensee's firm is engaged to perform any of the services listed, and the period covered by any historical financial statements involved in the listed services.
- (e) A licensee in public practice shall not receive a contingent fee for preparing an original or amended tax return or claim for a tax refund for any client.
- (f) Any licensee who receives a contingent fee pursuant to this section shall comply with all applicable Federal and State securities laws, rules promulgated thereunder, and registration requirements, including, but not limited to, the Investment Advisers Act of 1940 (15 U.S.C. §§ 80b-1 et seq.), the Uniform Securities Law(1997) (N.J.S.A. 49:3-47 et seq.), the Securities Act of 1933 (15 U.S.C. §§ 77a et seq.), and the Securities Exchange Act of 1934 (15 U.S.C. §§ 78a et seq.).

13:29-3.9 Discreditable acts

A licensee shall not commit any act that reflects adversely on the licensee's fitness to engage in the practice of public accountancy.

13:29-3.10 Advertising

- (a) A licensee shall not use or participate in the use of any form of public communication having reference to the licensee's professional services which contains a false, fraudulent, misleading, de-

ceptive or unfair statement or claim. A false, fraudulent, misleading, deceptive or unfair statement or claim includes a statement or claim which:

1. Contains a misrepresentation of fact; or
2. Is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or
3. Contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality; or
4. Is intended or likely to create false or unjustified expectations of favorable results; or
5. Implies educational or professional attainments or licensing recognition not supported in fact; or
6. States or implies that the licensee has received formal recognition as a specialist in any aspect of the practice of public accountancy, if this is not the case; or
7. Represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or
8. Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

13:29-3.11 Solicitation

A licensee may directly or indirectly solicit clients by circulars, advertisements or personal communications provided such circulars, advertisements or personal communications do not violate N.J.A.C. 13:29- 3.10.

13:29-3.12 Commissions, performance fees and referral fees

- (a) A performance fee is compensation to a licensee on the basis of a share of the capital gains upon, or the capital appreciation of, the funds or any portion of the funds of a client.
- (b) A licensee in public practice shall not receive a commission or performance fee for recommending or referring to a client any product or service, or receive a commission or performance fee for

recommending or referring any product or service to be supplied by a client, or receive a commission or performance fee, when the licensee or the licensee's firm also performs for that client the following:

1. An audit or review of a financial statement;
 2. A compilation of a financial statement accompanied by a report; or
 3. An examination of prospective financial information.
- (c) The prohibition set forth in (b) above applies during the period in which the licensee is engaged to perform any of the listed services, and the period covered by any historical financial statements involving those services.
- (d) A licensee in public practice who is not prohibited by this section from performing services for or receiving a commission or performance fee and who is paid or expects to be paid a commission or performance fee shall disclose that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission or performance fee relates.
- (e) Any licensee in public practice who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client.
- (f) All disclosures in (d) and (e) above shall:
1. Be made in writing contemporaneously with or prior to the referral or recommendation; and
 2. Shall be signed and dated by the person or entity to whom the licensee makes the referral or recommendation, or by the person or entity who was referred to the licensee.
- (g) A licensee in public practice who is not prohibited by this section from performing services for or receiving a commission or performance fee shall comply with all applicable Federal and State securities laws, rules promulgated thereunder, and registration requirements, including, but not limited to, the Investment Advisers Act of 1940 (15 U.S.C. §§ 80b-1 et seq.), the Uniform Securities Law (1997), the Securities Act of 1933 (15 U.S.C. §§ 77a et seq.), and the Securities Exchange Act of 1934 (15 U.S.C. §§ 78a et seq.).

13:29-3.13 Incompatible occupation

A licensee or the licensee's firm shall not concurrently engage in the practice of public accountancy and in any other business or occupation which impairs the licensee's independence or objectivity in rendering professional services.

13:29-3.14 (Reserved)

13:29-3.15 Firm names

A licensee shall not practice public accountancy under a firm name which is misleading in any way, as to the legal form of the firm, or as to the persons who are partners, officers, or shareholders of the firm, or as to any matter with respect to which public communications are restricted by N.J.A.C. 13:29-3.10, except that the names of one or more past partners or shareholders may be included in the firm name or its successor.

13:29-3.16 Records

- (a) A licensee or the licensee's firm shall furnish to the licensee's client or former client, upon request made within a reasonable time after original issuance of the document in question:
 - 1. A copy of a tax return of the client;
 - 2. A copy of any report, or other document, issued by the licensee to or for such client;
 - 3. Any accounting or other records belonging to, or obtained from or on behalf of, the client which the licensee removed from the client's premises or received for the client's account, but the licensee or the licensee's firm may make and retain copies of such documents when they form the basis for work done by the licensee; and
 - 4. A copy of the licensee's or his or her firm's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records, and are not otherwise available to the client.

13:29-3.17 (Reserved)

13:29-3.18 (Reserved)

SUBCHAPTER 4. (RESERVED)

13:29-4.1 (Reserved)

SUBCHAPTER 5. QUALITY ENHANCEMENT PROGRAM

13:29-5.1 Purpose and scope

There is hereby established a Quality Enhancement Program (Program). The purpose of the Program is to improve the quality of financial reporting and to promote the fairness of presentation and the dependability of information on which the public relies for guidance in financial transactions, accounting and business performance. The Program emphasizes education and rehabilitation rather than disciplinary action. Appropriate educational programs or procedures will ordinarily be recommended or required where reporting does not comply with appropriate professional standards. However, when a licensee is unwilling or unable to comply with those standards, or a licensee's professional work is so egregious as to warrant disciplinary action, the Board may resort to such action as is appropriate to protect the public interest.

13:29-5.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“Practice Unit” means any office of a firm registered with the Board to engage in the practice of public accountancy.

“Report” means an opinion, report, or other form of language that states or implies assurances as to the reliability of any financial statements, and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing.

13:29-5.3 Quality Enhancement Committee; members; duties; compensation

- (a) The Director of the Division of Consumer Affairs shall annually appoint a Standing Committee to be known as the Quality Enhancement Committee (Committee) to assist the Board in the implementation and administration of the Program:

1. The Director shall receive for consideration nominees from the Board of Accountancy, and shall make the appointments in consultation with the Board;

2. The Committee will consist of no fewer than five members, all of whom must be licensees and holders of currently valid registrations issued under N.J.S.A. 45:2B-8, 13 or 33;
 3. At least one member of the Committee shall be a Certified Public Accountant, at least one shall be a Public Accountant, and at least one shall be a Registered Municipal Accountant. At least two committee members will also be members of the State Board of Accountancy.
- (b) The Committee's responsibilities shall include:
1. Developing procedures for the internal operation of the Board staff and of the Committee;
 2. Assisting the Board in the selection and training of volunteer reviewers;
 3. Developing criteria for assignment of volunteer reviewers to specific report reviews, taking into account such criteria as the Board determines appropriate;
 4. Developing and recommending to the Board a system for selection of reports to be reviewed;
 5. Evaluating the findings of the volunteer reviewers, assigning certain reports for field work paper reviews upon directive by the Board, and making final recommendations to the Board;
 6. Compiling and reporting to the Board statistics on the impact and effect of the Program; and
 7. Considering such other matters and performing such other duties regarding the Program as may be delegated to it by the Board from time to time.
- (c) Committee members shall be compensated on a per diem basis at a rate as determined by the Attorney General, such compensation to be drawn from current license and registration fees.

13:29-5.4 Reports to be furnished at request of Committee

- (a) In accordance with a schedule to be set by the Committee, each practice unit shall complete a questionnaire indicating:
1. The number of audit, review and compilation reports issued by the practice unit during the most recent twelve-month period prior to renewal of registration;

2. Whether it has undergone any change of ownership or composition; and
 3. Whether it has undergone another type of quality review within the three years prior to the most recent renewal of registration.
- (b) Based upon the information contained in the questionnaires in (a) above, the Committee shall select practice units for report review. The practice units so selected shall then submit copies of those types of reports issued by the practice unit requested by the Committee.
- (c) The Committee may also review financial statements and related reports of practice units submitted to it by the Board or by government or public agencies.

13:29-5.5 Exceptions

A practice unit which within the three years immediately preceding selection by the Committee pursuant to N.J.A.C. 13:29-5.4 had been subjected to a quality review acceptable to the Board may be excepted from the requirements of N.J.A.C. 13:29-5.4 above; provided, however, that a copy of the report of such quality review is submitted upon request by the Committee.

13:29-5.6 Confidentiality

- (a) Any documents submitted in accordance with N.J.A.C. 13:29-5.4 shall have deleted the name of the client, the client's address and other identifying factors, provided that the deletion does not render the type or nature of the entity or organization undeterminable.
- For example, the client name, address, or Federal identification number shall be deleted, but reference to the type of entity or organization, such as financial institution, school district or hospital shall be indicated.
- (b) The identities of persons or entities who submit financial statements and reports to the Board or the Committee, other than the licensees who issued the reports, shall be preserved in confidence unless expressly ordered by the Board.

13:29-5.7 Review and evaluation of submitted reports

- (a) The Committee, with respect to each report that it reviews, shall:
1. Determine whether the report is in general conformity with applicable professional standards;
 2. Determine in what respects, if any, the report is deficient, inaccurate, significantly misleading or significantly deficient;
 3. Make recommendations to improve the quality of the report, and report its findings and recommendations to the Board; and
 4. Classify reports as: Unmodified, Unmodified with a Letter of Comment, Modified for Significant Departures from Professional Standards, or Adverse;
 - i. Unmodified reports are those that contain no deficiencies;
 - ii. Unmodified with a Letter of Comment reports are those that contain deficiencies such as departures from technical reporting or accounting or auditing standards, but of the type that do not render the report significantly inaccurate or significantly misleading;
 - iii. Modified for Significant Departures from Professional Standards reports are those that are significantly inaccurate or significantly misleading. These reports violate one or more significant reporting standards, or contain significant departures from generally accepted accounting principles or generally accepted auditing standards; and
 - iv. Adverse reports are those that are significantly inaccurate or significantly misleading and the deficiencies noted are so egregious that there is evidence that the licensee is performing work that he or she is not qualified to perform.

13:29-5.8 Committee action on reviewed reports

- (a) If the Committee determines that a report is in conformity with applicable professional standards and contains no deficiencies, the Committee shall send an unmodified report without a letter of comments to the practice unit.
- (b) If the Committee determines that a report has deficiencies, but of the type that do not render the report significantly inaccurate or

significantly misleading, the Committee shall submit to the practice unit an unmodified report with a letter of comment.

- (c) If the Committee determines that a report is Modified for Significant Departures from Professional Standards or Adverse, the Committee shall submit to the practice unit a letter of comment detailing the perceived deficiencies noted in connection with the review.
1. Any practice unit which receives a letter of comment pursuant to (c) above shall have 30 days in which to respond in writing. The Committee shall review all such responses, if received in a timely fashion, prior to recommending corrective measures.
 2. Where the Committee has determined that a report is Modified for Significant Departures from Professional Standards or Adverse, and following receipt and review of the practice unit's response, if any, to the letter of comment, the Committee may recommend that the practice unit implement planned quality control procedures, as follows:
 - i. The licensee responsible for the issuance of the report or who substantially participated in preparation of the report or the related workpapers shall successfully complete relevant continuing education courses at his or her own expense;
 - ii. The practice unit responsible for the issuance of the report shall submit all or specified categories of its reports to a pre-issuance review in a manner and for a period prescribed by the Committee; or
 - iii. The practice unit responsible for the issuance of the report shall submit to another Quality Enhancement Review pursuant to this rule.
 3. Where the Committee has determined that a report is significantly inaccurate, or significantly misleading, and following the receipt and review of the practice unit's response, if any, to the letter of comment, the Committee may take any of the following actions in addition to those set forth in (c)2 above:
 - i. Recommend to the Board that it direct that an on-site review which includes a review of the workpapers be conducted by a reviewer employed by the Board.

- ii. Recommend that the Board require that the licensee or practice unit responsible for the issuance of the significantly inaccurate or significantly misleading report undertake any of a variety of measures, as determined by the Board, intended to improve the quality of reporting by the licensee or practice unit.
- (d) Where the Board requires that a licensee or practice unit responsible for the issuance of a report containing significant deficiencies undertake a measure which would impose substantial burdens on the professional practice, the licensee or practice unit affected shall have the right to a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.
 - (e) Failure to comply with the recommendations of the Committee pursuant to (c) above may cause the Committee to recommend to the Board that it initiate appropriate disciplinary action against the licensee or practice unit according to N.J.S.A. 45:1-14 et seq. and N.J.S.A. 45:2B-1 et seq.
 - (f) The State Board of Accountancy reserves the right to take any action it deems necessary if it appears that the professional conduct reflected in a report that is Modified for Significant Departures from Professional Standards or Adverse is so serious as to warrant consideration of possible disciplinary action.

13:29-5.9 Reports and reviews not public records

- (a) Reports submitted by practice units for review in accordance with this subchapter shall not be deemed to be public records and are not required to be disclosed under the Public Records Disclosure Act, N.J.S.A. 47:1A-1 et seq.
- (b) Comments of reviewers, the Committee and the Board on reports submitted by practice units or workpapers relating thereto, as well as review results are deemed not to be public records and shall not be released to anyone other than the practice unit being reviewed, the Attorney General or his designee, or a Board representative.

SUBCHAPTER 6. CONTINUING PROFESSIONAL EDUCATION

13:29-6.1 Scope

All licensees subject to the provisions of N.J.S.A. 45:2B-42 et seq. shall comply with the provisions of this subchapter relating to continuing professional education (CPE). These rules apply to all licensees registered

by the Board of Accountancy in order to enhance the professional competence of such licensees.

13:29-6.2 Credit-hour requirements

- (a) Each applicant for a triennial license renewal is required to complete, during the preceding triennial period, 120 hours of continuing professional education. The types of continuing professional education programs and other sources of continuing professional education for which credit hours may be obtained are set forth in N.J.A.C. 13:29-6.5. The 120 hours of continuing professional education shall include at least 24 credit hours in the areas of auditing, review and compilation for persons who are engaged in the practice of public accounting or are involved with the attest function in issuing audit, review or compilation reports. All applicants shall complete at least 72 credit hours of the required 120 credit hours in the technical subjects set forth in N.J.A.C. 13:29-6.3. The remaining 48 credit hours of the required 120 credit hours may include subjects specified in N.J.A.C. 13:29-6.4. No licensee shall receive credit for any course offered by a Board-approved continuing professional education sponsor in subjects other than those enumerated in N.J.A.C. 13:29-6.3 or 6.4.
- (b) Persons failing to meet the continuing professional education requirements for a triennial renewal period shall not be issued a current license until such continuing professional education requirements have been satisfied. The Board may modify this policy on an individual basis under circumstances specified under N.J.S.A. 45:2B-68. Failure to meet triennial continuing professional education requirements may subject a licensee to disciplinary action by the Board.
- (c) The Board may, in its discretion, waive requirements for continuing professional education on an individual basis for reasons of hardship such as health, military service, or other due cause. A waiver of continuing professional education requirements granted pursuant to this subsection shall be effective only for the triennial period in which such waiver is granted. If the condition(s) which necessitated the waiver persists into the next triennial period, a licensee shall apply to the Board for the renewal of such waiver for the new triennial period. Inactive accountants shall be exempt from continuing professional education requirements. Inactive accountants are those who do not practice accounting (public or private)

or hold themselves out to the public as practicing accountants in any professional capacity. Any inactive accountant who returns to the practice of accounting shall notify the Board prior thereto and shall meet the continuing professional education requirements by completing 120 credit hours of continuing professional education requirements prescribed by this subchapter within the three-year period prior to reinstatement. Accountants inactive for more than one year, but not exceeding two years, shall satisfy at least 80 credit hours of continuing professional education within the two-year period prior to reinstatement. Accountants inactive for one year or less shall satisfy continuing professional education requirements by completing at least 40 credit hours of continuing professional education in the year prior to reinstatement.

- (d) An applicant, upon successful completion of the Uniform CPA Examination, shall be exempt from the requirements of (a) above for only the triennial period during which the applicant successfully completed such examination.

13:29-6.3 Qualifying technical subjects

- (a) The following subjects are acceptable for satisfaction of the required 72 credit hours of continuing professional education in technical subjects over the triennial period:
 - 1. Accounting;
 - 2. Auditing, including, but not limited to, review, compilation and attest standards;
 - 3. Business law;
 - 4. Computer Science;
 - 5. Economics;
 - 6. Finance;
 - 7. Management advisory services;
 - 8. Mathematics, statistics, etc.;
 - 9. SEC practice;
 - 10. Taxation; and
 - 11. Professional ethics.

- (b) Any of the subjects in (a) above may be in specialized areas, such as governmental, not-for-profit organizations, film industry, real estate, and farming.
- (c) Auditing, review and compilation includes the body of knowledge that deals with the basic service of the public accounting profession, that is, examination and reporting on financial statements. Also included in this area is the examination or review of internal and administrative controls, operations and government programs. Relevant program offerings could include audit theory and philosophy; generally accepted auditing standards; study and evaluation of internal control; substantive audit procedures; audit sampling; reporting on financial statements; review services; and computer and government auditing. Qualifying subject matter will include courses covering pronouncements or regulations issued by recognized authorities such as the FASB, AICPA, SEC or other government agencies (state and Federal) dealing with auditing, financial reporting, or application of generally accepted accounting principles.
- (d) Subjects other than those listed in (a) above may be acceptable for continuing professional education credit if the licensee can demonstrate to the satisfaction of the Board that such subject or specific program contributes to the maintenance of the licensee's professional competence.

13:29-6.4 Other qualifying subjects

Courses related to personal or professional development of the licensee, or courses directly associated with the administration of the licensee's practice, shall be accepted towards satisfaction of continuing professional education requirements. Included in this category are courses that concentrate on the practice management areas, such as organizational structure, human resource management and other administrative matters. Courses which relate to a licensee's personal skills such as speaking, leadership and managing people or organizations shall also be included in this category. Courses which relate to the development of a licensee's practice or the marketing of services shall not be accepted towards satisfaction of continuing professional education requirements.

13:29-6.5 Continuing professional education programs and other sources of continuing professional education credit

- (a) The following qualify as continuing professional education programs provided they contain the subjects enumerated in N.J.A.C. 13:29-6.3 and 6.4 and meet the continuing professional education program criteria requirements as set forth in N.J.A.C. 13:29-6.6
1. Continuing professional education programs of national or state professional organizations: Continuing professional education credit shall be granted at the rate of one credit hour for every 50 minutes of in-class participation.
 2. University or college courses: Continuing professional education credit shall be granted for university or college courses in accordance with the following:
 - i. Applicants shall receive five credit hours continuing professional education credit for each semester credit hour earned; and
 - ii. Applicants attending noncredit courses shall be granted continuing professional education credit at the rate of one credit hour for every 50 minutes of in-class participation.
 3. In-firm educational programs of public accounting firms: Continuing professional education credit shall be granted at the rate of one credit hour for every 50 minutes of in-firm participation.
 4. Correspondence programs and other individual study programs: Continuing professional education credit shall be granted for correspondence programs and other individual study programs in accordance with the following:
 - i. The amount of credit to be allowed for approved correspondence and individual study programs, including taped study programs, shall be recommended by the program sponsor based upon one-half the average completion time calculated by the sponsor after it has conducted appropriate "field tests." Although the program sponsor shall make recommendations concerning the number of credit hours to be granted, the number of credit hours granted shall be as determined by the Board; and

- ii. Credit for correspondence and other individual study programs shall only be given in the renewal period in which the course is completed with a successful final examination.
- (b) In addition to the continuing professional education programs enumerated in (a) above, continuing professional education credit also shall be awarded for the following if they fall within the subjects enumerated in N.J.A.C. 13:29-6.3 and 6.4 and meet the continuing professional education program criteria as set forth in N.J.A.C. 13:29-6.6.
- 1. Technical meetings: Licensees who participate in meetings of professional accounting organizations shall be awarded continuing professional education credit for that portion of the meeting which is structured as a continuing professional education program. Continuing professional education credit shall be granted at the rate of one credit hour for every 50 minutes of the licensee's participation.
 - 2. Professional accounting meetings, conferences, seminars: Licensees who participate in meetings of professional accounting organizations shall be awarded continuing professional education credit if the meeting is structured as an approved continuing professional education program. Continuing professional education credit shall be granted at the rate of one credit hour for every 50 minutes of the licensee's participation in the meeting.
 - 3. Firm meetings: Licensees who participate in firm meetings for staff or for management groups of professional accounting organizations shall be awarded continuing professional education credit if the meeting is structured as an approved continuing professional education program. Continuing professional education credit shall be granted at the rate of one credit hour for every 50 minutes of the licensee's participation in the meeting.
- (c) In addition to the continuing professional education programs enumerated in (a) and (b) above, continuing professional education credit also shall be granted for the following if they involve subjects enumerated in N.J.A.C. 13:29-6.3 and 6.4.

1. Service as a lecturer, instructor, discussion leader, or speaker: Continuing professional education credit shall be awarded for service as a lecturer, instructor, discussion leader, or speaker in accordance with the following:
 - i. One credit hour shall be given for each 50-minute period of service provided the discussion is one which meets the continuing professional education subject requirements of N.J.A.C. 13:29-6.3 and 6.4. For the lecturer's, instructor's, discussion leader's, or speaker's preparation time, there shall be awarded two additional hours of continuing professional education credit for each credit hour of instruction. Requests for credit shall be accompanied by an outline of the instruction, discussion, or presentation;
 - ii. The instructor or discussion leader shall not be given credit for subsequent sessions in the same year involving substantially identical subject matter, except that after one year has elapsed the Board may give one additional credit hour for each 50-minute period of service as an instructor, lecturer, discussion leader, or speaker for the initial presentation, provided the original material has been updated; and
 - iii. The maximum credit given for service as an instructor, lecturer, discussion leader, or speaker shall not exceed 60 credit hours for the triennial period.
2. Publications: Continuing professional education credit for peer-reviewed publications shall be awarded in accordance with the following:
 - i. Credit may be claimed for published articles and books by the authors of those works. These publications must contribute to the professional competence of accountants;
 - ii. Credit shall be given for each 50-minute period of preparation time on a self-declaration basis, not to exceed 30 credit hours for the triennial period. A copy of the publication article shall be submitted to the Board with a request for continuing professional education credit;
 - iii. In exceptional circumstances, a licensee may request additional credit by submitting the article or book to the Board with an explanation of the circumstances which he or she believes justify an award of greater credit. When licensees

request more than 30 credit hours during the triennial period, credit hours awarded shall be determined by the Board on a case-by-case basis. Factors such as complexity of subject matter, length of publication, and the amount of preparation time shall be considered;

- iv. The maximum credit for publication in exceptional circumstances shall not exceed 60 credit hours for the triennial period; and
- v. Credit shall be given for each 50-minute period of quality enhancement, technical review or peer review program committee participation, not to exceed 60 credit hours for the triennial period.

13:29-6.6 Criteria for continuing professional education sponsors

- (a) In order to qualify as a continuing professional education sponsor, the sponsor shall submit an application form prescribed by the Board and obtain a sponsor number. Qualified sponsors shall offer courses which meet the following requirements:
 - 1. Be a formal course of learning which contributes directly to the maintenance of professional competence of a licensee;
 - 2. Be at least one credit hour, 50-minute period, in length;
 - 3. Be conducted by a qualified instructor or discussion leader; and
 - 4. Offer subjects enumerated in N.J.A.C. 13:29-6.3 or 6.4.
- (b) A continuing professional education sponsor may receive prior approval for a course of acceptable subject matter and be assigned a designated number of continuing professional education credits by the Board if the program sponsor provides, in writing and on a form provided by the Board, information required by the Board to document the elements of (a) above, and, in addition thereto, certifies that the sponsor shall:
 - 1. Maintain and retain accurate records of attendance for a five-year period;
 - 2. Retain a written outline of course materials for a five-year period; and

3. Comply with the requirements of N.J.A.C. 13:29-6.12 relative to the responsibilities of program sponsors.
- (c) A continuing professional education sponsor shall not offer courses for continuing professional education credit to any Board licensee in subject matters other than those enumerated in N.J.A.C. 13:29-6.3 or 6.4.

13:29-6.7 Credit-hour calculations

- (a) The minimum measurement for continuing professional education credit shall be a whole credit hour. Except for those sources of continuing professional education for which another system of credit hour calculation is set forth in this subchapter, a continuing professional education credit hour shall be equivalent to 50 minutes.
- (b) Unless otherwise provided, only in-class participation, not student time devoted to preparation, shall be counted toward satisfaction of the continuing professional education requirements of this subchapter.

13:29-6.8 Reporting of continuing education credit hours

- (a) Licensees shall provide, at a time prescribed and on forms approved by the Board, a signed statement certifying that continuing professional education requirements have been satisfied and which shall include, where applicable, the following:
 1. Dates attended;
 2. Credit hours claimed;
 3. Title of course and description of content;
 4. School, firm, or organization sponsoring course;
 5. Instructor;
 6. Location of course;
 7. Public speaking;
 8. Lecturing; and
 9. Discussion leader activity.
- (b) Falsification of any information provided pursuant to (a) above may result in the suspension or revocation of the licenses held by the falsifier.

13:29-6.9 Retention of continuing professional
education records

(a) A licensee shall be primarily responsible for documenting satisfaction of continuing professional education requirements. Evidence to support fulfillment of continuing professional education requirements shall be maintained for a period of five years after the completion of educational courses. Such evidence shall be subject to periodic audit by the Board. Satisfactory documentation of the necessary information, including the retention of attendance records and written outlines, shall be accomplished as follows:

1. For courses taken for scholastic credit in accredited universities or colleges, a certified transcript or notarized statement of appropriate school authority shall constitute evidence of satisfactory completion of the course. For noncredit courses taken, a statement of the hours of attendance signed by the instructor, shall be obtained by the licensee.
2. For correspondence and independent study courses, written evidence of completion shall be submitted by the licensee.
 - i. Acceptable evidence of the completion of a correspondence course shall be a certificate of satisfactory completion acquired by the licensee from the program sponsor.
 - ii. Acceptable evidence of the completion of an independent study course shall be a summary of the program material drafted by the licensee.
3. If the program sponsor retains a copy of the course materials and a record of attendance, the licensee shall maintain a record of the information listed in N.J.A.C. 13:29-6.8(a). The licensee shall be responsible for determining whether or not the program sponsor retains such records. If there is a dispute concerning whether claimed activity should be granted credit and if the dispute could be resolved by the production of documented information to support the claim of the licensee, the dispute shall be resolved against the licensee if he or she fails to produce evidence sufficient to document his or her claim.
4. If the licensee determines that the program sponsor does not retain the information discussed in (a)3 above, the licensee shall maintain a record of that information and a copy of the course outline prepared by the program sponsor.

13:29-6.10 Continuing professional education requirements; reciprocity or reinstatement

- (a) An individual who holds a valid and unrevoked license issued by any state or other political subdivision of the United States and who receives a license to practice in New Jersey under the appropriate provisions of N.J.S.A. 45:2B-42 et seq. shall be required to comply with the continuing professional education requirements applicable to all other licensees.
- (b) All qualified persons who wish to apply for reinstatement to public practice in New Jersey shall meet the same continuing professional education requirements applicable to all other licensees for the triennial period in which they wish to be reinstated.

13:29-6.11 Responsibilities of program developers

- (a) Program developers shall specify the level of knowledge to be imparted under the continuing professional education program in order to provide sufficient information to potential participants and sponsors. As an illustration, a program may be described as having the objective of imparting technical knowledge at such levels as basic, intermediate, advanced, or overview, which may be defined as follows:
 - 1. A basic level program teaches fundamental principles or skills to participants having no prior exposure to the subject area;
 - 2. An intermediate level program builds on a basic level program in order to relate fundamental principles or skills to practical situations and extend them to a broader range of applications;
 - 3. An advanced level program teaches participants to deal with complex situations; and
 - 4. An overview program enables participants to develop perspective as to how a subject area relates to the broader aspects of accounting or brings participants up-to-date on new developments in the subject area.
- (b) Program developers shall clearly identify what prerequisites are suggested for enrollment. If no prerequisite is necessary, a statement to this effect shall be made. Prerequisites shall be specified in precise language so potential participants may readily ascertain whether the program would be beneficial to them or whether the program is above or below their level of knowledge or skill.

- (c) Programs shall be developed by individuals qualified in the subject matter and in instructional design. An individual program developer need not be both technically competent and competent in instructional design, provided that both types of competency are represented in the program's development. Mastery of the technical knowledge or skill in instructional design may be demonstrated by appropriate experience or educational credentials.
- (d) The program developer shall review the course materials periodically to ensure that they are accurate and consistent with currently accepted standards relating to the program's subject matter. Between these reviews, errata sheets shall be issued where appropriate, and obsolete material shall be deleted; however, between the time a new pronouncement is issued and the issuance of errata sheets or removal of obsolete materials, the instructor shall be responsible for informing participants of changes. If, for example, a new accounting standard is issued, a program shall not be considered current unless the ramifications of the new standard have been incorporated into the materials or the instructor appropriately informs the participants of the new standard.

13:29-6.12 Responsibilities of program sponsors

- (a) In addition to the requirements of N.J.A.C. 13:29-6.6, continuing professional education program sponsors shall comply with the following requirements:
 - 1. Disclosure to prospective participants: The program sponsor shall disclose in advance to prospective participants the objective, prerequisites, experience level, content, required advanced preparation, teaching method, and number of continuing professional education credits involved in the program. Sponsors shall also advise participants, in advance, of courses which qualify as "auditing" pursuant to N.J.A.C. 13:29-6.3(a).
 - 2. Selection and review of instructors: The program sponsor shall select and assign qualified instructors for the continuing professional education program. Sponsors shall evaluate the performance of the program instructors at the conclusion of each program to determine the instructors' suitability to continue to serve as instructors in the future.
 - 3. Number of participants and adequacy of physical facilities: The program sponsor shall be responsible for assuring that

the number of participants and the physical facilities are consistent with the teaching methods to be utilized.

4. Program evaluation: Program evaluation shall be in accordance with the following:
 - i. The sponsor shall provide some means of program evaluation. Evaluations shall be solicited from both the participants and instructors. Programs shall be evaluated to determine whether:
 - (1) Objectives have been met;
 - (2) Prerequisites were necessary or desirable;
 - (3) Facilities were satisfactory;
 - (4) The instructor was effective;
 - (5) Advanced preparation materials were satisfactory; and
 - (6) The program content was timely and effective.
 - ii. Evaluations shall take the form of one or a combination of pretests for advanced preparation, post-tests for effectiveness of the program, questionnaires completed at the end of the program or later, or oral feedback to the instructor or sponsor. Instructors shall be informed of their performance, and sponsors shall systematically review the evaluation process to insure its effectiveness.

13:29-6.13 Sponsor's failure to comply with continuing education responsibilities

Failure of a sponsor to comply with the requirements for continuing professional education programs, as set forth in N.J.A.C. 13:29-6.6, and responsibilities of program sponsors, as set forth in N.J.A.C. 13:29-6.12, may result in the suspension of the preapproved status for programs offered by the sponsor.

New Jersey Annotated Code

Title 13, Chapter 45.

Uniform Regulations

SUBCHAPTER 1. LICENSEE DUTY TO COOPERATE AND TO COMPLY WITH BOARD ORDERS

13:45C-1.1 Definition of “licensee”

- (a) For the purpose of this subchapter, “licensee” shall mean any licensee, permittee or registrant of:
1. The Division of Consumer Affairs;
 2. Any professional or occupational licensing board, or any committee, or other sub-agency thereof located within the Division;
 3. The Division of Consumer Affairs, Office of Consumer Protection, Regulated Business Section (Employment Agencies and Temporary Help Service Firms) pursuant to N.J.S.A. 34:8-24 et seq.; or
 4. The Legalized Games of Chance Control Commission.

13:45C-1.2 Licensee’s duty to cooperate in investigative inquiries

A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee’s licensing agency into a licensee’s conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions. A licensee’s failure to cooperate, absent good cause or bona fide claim of a privilege not identified in N.J.A.C. 13:45C-1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) or the agency’s enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1-21(h) or the agency’s enabling act.

13:45C-1.3 Specific conduct deemed failure to cooperate

- (a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct

or other good cause or grounds for suspension or revocation of licensure:

1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct.
2. The failure to timely provide records related to licensee conduct.
3. The failure to attend any scheduled proceeding at which the licensee's appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee's responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not require an adjournment of the proceeding.
4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A. 45:1-18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement or report under oath, the failure to permit the examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to records, books or other documents utilized in the practice of the occupation or profession.
5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1-18 or other applicable law unless the response to said question is subject to a *bona fide* claim of privilege.
6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 or as may otherwise be provided by law.
7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee's most recent license renewal or application.

13:45C-1.4 Failure to comply with Board orders as professional or occupational misconduct

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

13:45C-1.5 Unavailability of privileges in investigative or disciplinary proceedings

In any investigative inquiry conducted pursuant to N.J.S.A. 45:1-18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1-21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage and family therapist-client privilege, professional counselor-client privilege, associate counselor-client privilege and the social worker-client privilege shall be unavailable. Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board, its agent or the Attorney General pursuant to N.J.S.A. 45:1-18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

13:45C-1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable

- (a) Any statements, records or other information acquired which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:
 - 1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;
 - 2. The professional or occupational licensing board or the committee or other sub-agency of the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or
 - 3. A Deputy Attorney General.
- (b) Except as may be otherwise ordered as provided in this subchapter, access to the statements, records or other information shall be afforded only to employees of the Attorney General, the Enforcement Bureau, or the board or other sub-agency of the Division hav-

ing a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain.

- (c) The statements, records or other information shall be retained only for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they shall be returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information shall be returned to the patient, where appropriate.